

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEVI ALAN SMITH,

Defendant.

8:10CR127

ORDER

This matter is before the court on its own motion in order to clarify the record. At a hearing on July 2, 2013, the court granted defendant's oral reassertion of his motion to dismiss, Filing No. 21, stating that the defendant has standing to reassert the nondelegation doctrine. Filing No. 87. The action was remanded from the Eighth Circuit with directions to address the issue on the merits. Filing No. 82. Smith's nondelegation challenge fails under Eighth Circuit precedent. See Filing No. 85, Memorandum and Order at 4. The court has addressed the merits of the issue and finds that Smith is not entitled to any relief. *Id.* at 3-4; see *United States v. Fernandez*, 710 F.3d 847, 849 (8th Cir. 2013). Accordingly,

IT IS ORDERED that the defendant's motion to dismiss based on the nondelegation doctrine (Filing No. 21) is denied.

DATED this 19th day of July, 2013.

BY THE COURT:

s/ Joseph F. Bataillon

United States District Judge